



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,531	05/12/2006	Fredrik Gustavsson	0100508/0538460	1510

26874 7590 04/08/2009
FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202

EXAMINER

WACHSMAN, HAL D

ART UNIT	PAPER NUMBER
----------	--------------

2857

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

04/08/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@fbtlaw.com

Office Action Summary	Application No. 10/563,531	Applicant(s) GUSTAVSSON ET AL.	
	Examiner Hal D. Wachsman	Art Unit 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4 and 6-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4,6-13,15,16 and 18-20 is/are allowed.
- 6) ☒ Claim(s) 14 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2857

1. The replacement sheet drawings filed 1-29-09 are objected to for the following reasons:

a) There are now Figures 4a-4d, however beneath these four figures is the label "Fig. 4" when there is no longer a Figure 4 as each of these figures have now been labeled separately. In similar fashion, the Description of the Drawings section in the specification refers to "Fig. 4" however there is no longer a Figure 4 but rather there are now Figures 4a-4d. Appropriate correction is required to both the drawings and the Description of the Drawings section in the specification.

b) There are now Figures 6a and 6b, however above these figures is the label "Fig 6" when there is no longer a Figure 6 as each of these figures have now been labeled separately. In similar fashion, the Description of the Drawings section in the specification refers to "Fig. 6" however there is no longer a Figure 6 but rather there are now Figures 6a and 6b. Appropriate correction is required to both the drawings and the Description of the Drawings section in the specification.

c) There are now Figures 8a and 8b, however above these figures is the label "Fig 8" when there is no longer a Figure 8 as each of these figures have now been labeled separately. In similar fashion, the Description of the Drawings section refers to "Fig. 8" however there is no longer a Figure 8 but rather there are now Figures 8a and 8b. Appropriate correction is required to both the drawings and the Description of the Drawings section in the specification.

d) In a number of the replacement drawings the axes labeling and legends have some fading in the lettering affecting the clarity of the labeling. Appropriate correction is required.

2. The Amendment To The Specification section in the reply filed 1-29-09 is objected to for the following reasons:

a) The amendment "On Page 5,....should be deleted as noted:" contains below this the section being deleted with a strikethrough of the text. However, under 37 C.F.R. 1.121 deletion of a paragraph or section must only include an instruction to delete, and the location of the paragraph or section. Appropriate correction is required.

b) The replacement paragraph which starts as "Fig. 7 shows the auto-correlation function...." is improper under 37 C.F.R. 1.121 because in line 3 of this paragraph text is missing after the words "signals of" which is found in the original description of Figure 8 in the specification of record (i.e. the replacement paragraph is incomplete). Appropriate correction is required.

c) The amendment "On Page 21, line 10 should be amended to read:" is improper under 37 C.F.R. 1.121 because a complete replacement paragraph was not presented (also see paragraph 4 below).

d) The amendment "On Page 21, line 25, should be amended to read:" is improper under 37 C.F.R. 1.121 because a complete replacement paragraph was not presented. Appropriate correction is required.

e) The amendment "Lines 8 through 18 should be amended to read:" is improper because it does not cite the page number too and the paragraphs that are

Art Unit: 2857

being replaced are not on lines 8 through 18 but are on lines 15-25 on page 5 of the specification. Appropriate correction is required.

f) The amendment "In the Abstract...." is improper because a replacement abstract on a separate sheet (see 37 C.F.R. 1.72) with markings to show all changes relative to the immediate prior version was not submitted. Appropriate correction is required.

3. There is no statement of continuing data on the first page of the specification. Appropriate correction is required.

4. The amendment filed 1-29-09 which has the instruction "On Page 21, line 10 should be amended to read:" is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The amendment deletes the words "and carrier wave signals" on page 21, line 10, which changes the scope of the specification so that page 21, lines 8-10, would read "....The term "machine-readable medium" shall accordingly be taken to include, but not to be limited to, solid state memories, optical and magnetic storage media." instead of "....The term "machine-readable medium" shall accordingly be taken to include, but not to be limited to, solid state memories, optical and magnetic storage media, *and carrier wave signals*." as was disclosed in the specification of record. Thus, the amendment for page 21, line 10, of the specification, introduces new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

Art Unit: 2857

5. Claims 6 and 7 are objected to under 37 C.F.R. 1.75(c) because each of these claims do not refer back to and further limit another claim. Both claims 6 and 7 depend from higher numbered new claim 20 and thus these claims do not refer back to another claim. Appropriate correction is required.

6. Claims 4, 6, 7, 13-17 and 20, are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In claim 4, lines 3 and 4, it appears that a multiplication sign is missing between the variables in the cited formula. Claim 13, line 8, cites "velocity-compensated" however was this intended to be "velocity-compensated correlation function (R)" ? Claim 13, line 19, cites "a time difference (r)" however a time difference of what exactly is being referred to here and "r" previously in the claim represented the wheel radius. This same type of problem also occurs in claims 14, 16, 17, 20. Claim 14, line 16, cites "a correlation function (R)" however is this the same correlation function cited previously in the claim ? Claim 15, lines 1-2, cite "the wheel radii" which lacks clear antecedent basis. Claim 20, line 3, cites "at lease one pair of wheels" which it appears should be "at least one pair of wheels". Claim 20, line 9, cites "front wheel and rear wheel signals" however the antecedent basis is "front wheel and rear wheel speed signals". In steps bb and c of claim 20, it appears that different variables are being used to represent the time delay. The examiner asks the applicant to better claim the limitations cited above. While the examiner understands the intentions of the applicant he feels confusion could be drawn from the limitations cited above. Appropriate correction is required.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 14 and 17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. However, both claims 14 and 17 state "A computer program product including program code..." and page 21, lines 6-10, of the specification state (note: what the specification of record states (new matter amendment not included - see paragraph 4 above)):

"The embodiments of the *computer program products* with *program code* for performing the described methods include any machine-readable medium that is capable of storing or encoding the program code. The term "machine-readable medium" shall accordingly be taken to include, but not to be limited to, solid state memories, optical and magnetic storage media, and carrier wave **signals**."

A "signal" is not one of the four statutory classes of invention as it is not a "machine", "article of manufacture", "composition of matter" or a "process". Consequently, both claims 14 and 17 are directed toward non-statutory subject matter.

9. Claims 1, 4, 6-13, 15, 16 and 18-20 are allowed subject to the appropriate correction of the 37 C.F.R. 1.75(c) and 37 C.F.R. 1.75(a) objections noted above.

10. Applicant's arguments filed 1-29-09 have been fully considered but they are not persuasive with respect to the 35 U.S.C. 101 rejections above. On page 13 of the reply, the Applicant states that "The specification has been amended, at page 21, to make it

Art Unit: 2857

clear that claim 14 is not intended to include "carrier wave signals". However, as shown in paragraph 4 above this amendment introduces new matter into the specification and thus it is respectfully stated that "carrier wave signals" are included as shown in the original specification of record on page 21.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D. Wachsman whose telephone number is 571-272-2225. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eliseo Ramos-Feliciano can be reached on 571-272-7925. The fax phone

Art Unit: 2857

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hal D Wachsman/
Primary Examiner
Art Unit 2857

April 2, 2009

Application/Control Number: 10/563,531
Art Unit: 2857

Page 9